

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6766

BILL NUMBER: HB 1191

NOTE PREPARED: Jan 2, 2014

BILL AMENDED:

SUBJECT: Criminal Trespass and Agricultural Operations.

FIRST AUTHOR: Rep. Friend

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

- *Class A Misdemeanor* - It makes it criminal trespass, a Class A misdemeanor, for a person who does not have a contractual interest in the real property of another person that contains an agricultural operation to:
 1. Knowingly or intentionally enter the real property without the consent of the other person or the other person's agent or refuse to leave the real property after having been asked to leave by the other person or the other person's agent; and
 2. Knowingly or intentionally commit an act on the real property that causes the other person, a person who owns or operates a business or another enterprise on the real property, or a person who owns personal property located on the real property to suffer a pecuniary loss.
- *Level 6 Felony* - It makes the offense a Level 6 felony if the pecuniary loss is at least \$2,500.
- *Denial of Entry* - It provides that, for purposes of the law concerning criminal trespass, a person is considered to have been denied entry to the real property of another person that contains an agricultural operation if the real property is:
 1. Enclosed by a lawful fence or an open or closed structure;
 2. Visibly being used for purposes of cultivation; or
 3. Visibly being used for purposes of timber management and the real property has been classified and recorded as native forest land or a forest plantation under the property tax law concerning the assessment of certain forest lands.

Effective Date: July 1, 2014.

Explanation of State Expenditures: *Level 6 Felony* - It is currently unknown how many new convictions might occur for criminal trespassing where the pecuniary loss is at least \$2,500. A Level 6 felony is punishable by a prison term ranging from 6 months to 30 months or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. Assuming offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$3,266 annually, or \$8.95 daily, per prisoner.

Explanation of State Revenues: *Class A Misdemeanor* - The number of new convictions that might occur for criminal trespassing is currently unknown. If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class A misdemeanor is \$5,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit or superior court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the automated record keeping fee (\$7), judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$2) are deposited into the state General Fund.

Level 6 Felony - If additional court cases occur and fines are collected, revenue to both the Common School Fund (from criminal fines) and the state General Fund (from court fees) would increase. The maximum fine for a Level 6 felony is \$10,000.

Explanation of Local Expenditures: *Class A Misdemeanor* - A Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Level 6 Felony - If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase.

Explanation of Local Revenues: *Class A Misdemeanor and Level 6 Felony* - If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Persons found guilty of a felony or misdemeanor are also required to pay the document storage fee (\$2), which is deposited into the clerk record perpetuation fund, and the jury fee (\$2) and the law enforcement continuing education fee (\$4), which are both deposited in the county user fee fund.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources:

Fiscal Analyst: Lauren Sewell, 317-232-9586.